

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

OLIVER M. BOLING,

Plaintiff,

v.

**DR. ANTHONY BUSSANICH;
IVAN NAVARRO; LUIS
RAMIREZ; HOWARD HUFFORD;
“JOHN DOES NOS. 1-10”; and THE
UNITED STATES OF AMERICA,**

Defendants.

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**Civil Action No. 3: CV-07-1133
(Kosik, J.)**

Complaint filed June 25, 2007

Jury Trial Demanded

ELECTRONICALLY FILED

**PLAINTIFF’S RESPONSE TO THE DEFENDANTS’
STATEMENT OF MATERIAL FACTS AND
COUNTER-STATEMENT OF MATERIAL FACTS**

Pursuant to Local Rule 56.1, Plaintiff Oliver M. Boling, through undersigned counsel, submits his response to the numbered paragraphs of Defendants’ Statement of Material Facts and submits his Counter-Statement of Material Facts:

I. RESPONSE TO DEFENDANTS’ STATEMENT OF MATERIAL FACTS

1. No response.
2. No response.
3. No response.
4. No response.

5. No response.
6. No response.
7. Plaintiff admits that the Inmate Handbook, which he received, outlines procedures for securing a medical appointment. Plaintiff denies that all USP Lewisburg customs and practices for obtaining medical appointments were outlined in the Inmate Handbook. Specifically, Plaintiff was told by Health Services staff members that the common practice at USP Lewisburg was to submit Inmate Request to Staff member forms directed to Clinical Director Dr. Bussanich to a Health Services staff member for delivery. This common practice and custom was not outlined in the Inmate Handbook expressly. (Doc. 77, Defs.' Ex. 6 (Boling Decl.) ¶ 8.)
8. No response.
9. No response.
10. No response.
11. No response.
12. Denied. A "sick call" slip is not the same as an "appointment" slip. The "sick call" slip is the document the inmate hands to the Health Services staff member during sick call sign up. The appointment slip is what the Health Services staff member hands to the inmate in duplicate.
13. Denied. Two copies of the "sick call" slip do not go to the inmate. *Id.*

14. Denied. It is the policy of the BOP to retain sick-call slips in the medical records. (Pl.'s Ex. A, Brown 30(b)(6) Dep. at 38:8-9.)
15. No response.
16. Denied.
17. No response.
18. No response.
19. Denied. PA Ramirez and PA Navarro were deliberately indifferent to Plaintiff's needs. (Doc. 77, Defs.' Ex. 6 (Boling Decl.) ¶¶ 3-38.)
20. No response.
21. No response.
22. No response.
23. No response.
24. Denied. It is the policy of the BOP to retain sick-call slips in the medical records. (Pl.'s Ex. A, Brown 30(b)(6) Dep. at 38:8-9.)
25. No response.
26. Plaintiff's declaration speaks for itself.
27. Plaintiff's declaration speaks for itself.
28. Plaintiff's declaration speaks for itself.
29. Plaintiff's declaration speaks for itself.
30. Plaintiff's deposition testimony speaks for itself.
31. Plaintiff's deposition testimony speaks for itself.

32. Denied. (Doc. 77, Defs.' Ex. 6 (Boling Decl.) ¶ 4; Defs.' Ex. 7, Boling Dep. at 44:19-25, 46:14-25, 47:1-2, 41:8-11.)

33. Plaintiff's deposition testimony speaks for itself.

34. Plaintiff's declaration speaks for itself.

35. Plaintiff's deposition testimony speaks for itself.

36. Plaintiff's deposition testimony speaks for itself.

37. Plaintiff's declaration speaks for itself.

38. Plaintiff's declaration speaks for itself.

39. Plaintiff's deposition testimony speaks for itself.

40. Plaintiff's deposition testimony speaks for itself.

41. Denied. Dr. Bussanich does not recall the exact dates he was on vacation.

(Pl.'s Ex. G, Bussanich Dep. at 90:20-91:1 (Feb. 10, 2009) (emphasis added).)

42. Plaintiff's declaration speaks for itself.

43. Plaintiff's declaration speaks for itself.

44. Plaintiff's declaration speaks for itself.

45. Denied. (Doc. 77, Defs.' Ex. 6 (Boling Decl.) ¶ 9.)

46. Denied. Boling denies that he was seen by a physician on July 13, 2005.

(Doc. 77, Defs.' Ex. 6 (Boling Decl.) ¶ 64.)

47. Denied. Boling denies that he was seen by a physician on July 13, 2005.

(Doc. 77, Defs.' Ex. 6 (Boling Decl.) ¶ 64.) .

48. Denied. Boling denies that he was seen by a physician on July 13, 2005.

(Doc. 77, Defs.' Ex. 6 (Boling Decl.) ¶ 64.)

49. Denied. Boling denies that he was seen by a physician on July 13, 2005.

(Doc. 77, Defs.' Ex. 6 (Boling Decl.) ¶ 64.)

50. Denied. Boling denies that he was seen by a physician on July 13, 2005.

(Doc. 77, Defs.' Ex. 6 (Boling Decl.) ¶ 64.) Plaintiff's declaration testimony speaks for itself.

51. Plaintiff's deposition testimony speaks for itself.

52. Plaintiff's deposition testimony speaks for itself.

53. Plaintiff's deposition testimony speaks for itself.

54. Plaintiff's declaration speaks for itself.

55. Plaintiff's declaration speaks for itself.

56. Plaintiff's declaration speaks for itself.

57. Denied. (Doc. 77, Defs.' Ex. 6 (Boling Decl.) ¶ 9.)

58. Plaintiff's declaration speaks for itself.

59. Plaintiff's deposition testimony speaks for itself.

60. Plaintiff's declaration testimony speaks for itself.

61. Plaintiff's declaration testimony speaks for itself.

62. Plaintiff's declaration testimony speaks for itself.

63. Plaintiff's declaration testimony speaks for itself.

64. Plaintiff's declaration testimony speaks for itself.

65. Plaintiff's declaration testimony speaks for itself.

66. Plaintiff's Amended Complaint speaks for itself.

67. Plaintiff's Amended Complaint speaks for itself.

68. Denied. (Doc. 77, Defs.' Ex. 6 (Boling Decl.) ¶¶ 23-24.)
69. Plaintiff's declaration speaks for itself.
70. Plaintiff's declaration speaks for itself.
71. Plaintiff's declaration speaks for itself.
72. Plaintiff's declaration speaks for itself.
73. Plaintiff's declaration speaks for itself.
74. Plaintiff's declaration speaks for itself.
75. Plaintiff's declaration speaks for itself.
76. Plaintiff's declaration speaks for itself.
77. Plaintiff's declaration speaks for itself.
78. Plaintiff's declaration speaks for itself.
79. Plaintiff's declaration speaks for itself.
80. Plaintiff's declaration speaks for itself.
81. Plaintiff's deposition testimony speaks for itself.
82. Plaintiff's declaration speaks for itself.
83. Plaintiff's declaration speaks for itself.
84. No response.
85. No response.
86. No response.
87. No response.
88. Plaintiff's declaration speaks for itself.
89. Plaintiff's declaration speaks for itself.
90. No response.

91. No response.
92. No response.
93. No response.
94. No response.
95. No response.
96. No response.
97. No response.
98. No response.
99. No response.
100. No response.
101. No response.
102. No response.
103. No response.
104. Denied. Boling did not tell the Health Services staff that he was “getting better” on November 3, 2005, as the defendants allege. Instead, Mr. Boling told the Health Services staff that he was still urinating feces. (Doc. 77, Defs.’ Ex. 6 (Boling Decl.) ¶ 48.)
105. Plaintiff’s declaration speaks for itself.
106. Plaintiff’s declaration speaks for itself.
107. No response.
108. No response.
109. No response.

- 110. No response.
- 111. No response.
- 112. No response.
- 113. No response.
- 114. No response.
- 115. No response.
- 116. Plaintiff's declaration speaks for itself.
- 117. No response.
- 118. No response.
- 119. No response.
- 120. No response.
- 121. No response.
- 122. Denied. (Doc. 77, Defs.' Ex. 6 (Boling Decl.) ¶¶ 3-38.)
- 123. Denied. (Doc. 77, Defs.' Ex. 6 (Boling Decl.) ¶¶ 3-38.)
- 124. Denied. (Doc. 77, Defs.' Ex. 6 (Boling Decl.) ¶¶ 3-38.)
- 125. Denied. (Doc. 77, Defs.' Ex. 6 (Boling Decl.) ¶¶ 3-38.)
- 126. Denied. (Doc. 77, Defs.' Ex. 6 (Boling Decl.) ¶¶ 3-38; Pl.'s Ex. G, Bussanich Dep. at 96:15-97:9 (Feb. 10, 2009).)
- 127. No response.
- 128. No response.
- 129. No response.
- 130. No response.
- 131. No response.

132. No response.
133. No response.
134. No response.
135. Plaintiff's Amended Complaint speaks for itself.
136. Denied. This is a legal conclusion.
137. Denied. This is a legal conclusion.
138. To the extent that that the Government concedes that neither the BOP nor anyone at USP Lewisburg was fulfilling their legal responsibilities to schedule timely appointments with Dr. Raj Chopra and Dr. Anuj Chopra, this allegation is admitted. Otherwise, denied.
139. No response.
140. No response.
141. No response.
142. No response.
143. No response.
144. No response.
145. No response.
146. No response.
147. No response.
148. No response.
149. No response.
150. No response.

151. No response.

152. Denied.

153. No response.

154. No response.

155. No response.

156. No response.

157. No response.

158. No response.

159. No response.

160. No response.

161. No response.

162. No response.

163. No response.

164. Boling's declaration speaks for itself.

165. Boling's declaration speaks for itself.

166. No response.

167. No response.

168. Denied. On February 2, 2006, Mr. Boling was seen at sick call. During this sick call consultation, he told the Health Services staff member that he had been passing feces, brown puss, and blood. Mr. Boling never said, however, that he had been passing stones. In addition, Mr. Boling told the staff member that he had been urinating feces, blood, and brown puss since July 2005. Mr. Boling never

told the staff member that he had been passing for “five months” only. (Doc. 77, Defs.’ Ex. 6 (Boling Decl.) ¶ 59.)

169. No response.

170. No response.

171. No response.

172. Denied. (*See* Doc. 75, Pl.’s SMF PSJ, Ex. A, (Davi Decl.) ¶ 13.)

173. No response.

174. No response.

175. No response.

176. No response.

177. No response.

178. No response.

179. No response.

180. No response.

181. No response.

182. No response.

183. No response.

184. No response.

185. No response.

186. Denied.

187. No response.

188. No response.

189. No response.

190. No response.
191. No response.
192. No response.
193. No response.
194. No response.
195. No response.
196. No response.
197. No response.
198. No response.
199. No response.
200. Denied.
201. Denied.
202. No response.
203. No response.
204. No response.
205. No response.
206. No response.
207. No response.
208. No response.
209. No response.
210. No response.
211. No response.
212. Plaintiff's deposition testimony speaks for itself.

- 213. No response.
- 214. No response.
- 215. No response.
- 216. No response.
- 217. Plaintiff's deposition testimony speaks for itself.
- 218. No response.
- 219. No response.
- 220. No response.
- 221. Denied.
- 222. No response.
- 223. No response.
- 224. No response.
- 225. No response.
- 226. No response.
- 227. No response.
- 228. No response.
- 229. No response.
- 230. No response.
- 231. Plaintiff's deposition testimony speaks for itself.
- 232. Plaintiff's deposition testimony speaks for itself.
- 233. Plaintiff's deposition testimony speaks for itself.
- 234. Plaintiff's deposition testimony speaks for itself.
- 235. Plaintiff's deposition testimony speaks for itself.

- 236. No response.
- 237. No response.
- 238. No response.
- 239. No response.
- 240. No response.
- 241. No response.
- 242. No response.
- 243. No response.
- 244. No response.
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- 252. No response.
- 253. No response.
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264. No response.

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266. No response.

267. No response.

268. No response.

269. No response.

II. COUNTER STATEMENT OF MATERIAL FACTS

1. Mr. Boling is an inmate in the custody of the Federal Bureau of Prisons (“BOP”) and was, at all times relevant to this matter, incarcerated at the United States Penitentiary in Lewisburg, Pennsylvania (“USP Lewisburg”). He is currently incarcerated at USP Big Sandy in Inez, Kentucky. For identification purposes, the Federal Bureau of Prisons has assigned Mr. Boling Registration Number 36688-118. (Doc. 77, Defs.’ Ex. 6 (Boling Decl.) ¶ 1.)

2. During early July 2005, Mr. Boling developed what was subsequently diagnosed as a serious medical disorder known as a colovesicular fistula, which is an abnormal connection that develops between the colon and the bladder. As a result, he began suffering extreme pain and irritation during urination.

Specifically, his urine began to contain blood and feces. Because urinating blood and fecal material is extremely painful, Mr. Boling sought immediate medical assistance from the medical staff at USP Lewisburg. *Id.* ¶ 2.

3. For over three months, between July 2005 and October 2005, however, Dr. Bussanich, Ivan Navarro, Luis Ramirez, Howard Hufford and “John Does 1-10” were deliberately indifferent to, and/or negligently disregarded, Mr. Boling’s serious medical needs. Thereafter, between October 2005 and May 2006, the USP Lewisburg staff was deliberately indifferent to, and/or negligently treated, Mr. Boling’s serious medical needs. *Id.* ¶ 3.

4. On July 5, 2005, Mr. Boling went to the infirmary at USP Lewisburg. He filled out a Medical Request form, also known as a “sick call” slip, reporting that he was urinating blood and feces and requesting a “sick call” appointment with Dr. Bussanich or a Physician’s Assistant (“PA”). He submitted his “sick-call” slip to Luis Ramirez, PA. He also told Ramirez that his urine contained blood, brown puss, and fecal material. Mr. Boling told Ramirez that he was urinating between fifteen and twenty times per night, which was extremely painful. He explained to Ramirez that feces the size of asparagus were “clogging” his penis and interrupting his urine flow. Mr. Boling also told Ramirez that, when he was able to urinate, his urine would push feces and blood out of his body through his penis. *Id.* ¶ 4.

5. Mr. Boling requested that Ramirez provide immediate treatment for this serious medical need, schedule him for an appointment to be examined by Dr. Bussanich, and/or schedule him for an appointment to be examined by a PA. However, Ramirez refused to examine or treat Mr. Boling, refused to schedule him for a “sick call” appointment with Dr. Bussanich, refused to schedule him for an appointment with a PA, and refused to record his symptoms or medical complaints in his medical records. Although he offered to show Ramirez his problem, Ramirez refused to examine him and ordered Mr. Boling to leave the infirmary. Mr. Boling returned to his unit without being examined, without receiving treatment and without a scheduled appointment with Dr. Bussanich or a PA. *Id.* ¶

5.

6. Two days later, after his symptoms worsened, Mr. Boling returned to the infirmary. He filled out another “sick-call” slip, documenting his symptoms. Mr. Boling gave the “sick-call” slip to a “John Doe” medical staff member in the infirmary. The “John Doe” medical staff member again denied him treatment and refused to schedule an appointment with Dr. Bussanich or a PA. *Id.* ¶ 6.

7. Furthermore, the “John Doe” medical staff member refused to record Mr. Boling’s symptoms or medical complaints in his medical records. *See id.* at Attach. 17.

8. The next day, on July 8, 2005, Mr. Boling sent an Inmate Request to Staff Member form to Dr. Bussanich. Inmates are required to fill out an Inmate Request to Staff Member form (BP-Admin-70) to make a written request to a staff member. *Id.* ¶ 7, Attach. 21. Any type of request can be made with this form, including medical requests. *Id.* Staff members are required to respond to an Inmate Request to Staff Member form within a reasonable period of time. *Id.* In his Inmate Request to Staff Member form to Dr. Bussanich, Mr. Boling explained:

I have been urinating blood, brown puss, and feces is coming out my penis. I have been trying to be seen by you. I piss at least 15 to 20 times during the night. It pains me really bad. Feces shoots out my penis the 'size of green asparagus' and the feces that cannot make it out of my penis hole. I feel it larged in my penis and shoots out when I have a lot of urine flow. I get chills when I piss and feces continue to come out my penis. Please Doc. I need to be seen. Thank you.

Id. ¶ 7, Attach. 1.

9. Mr. Boling was directed verbally by Health Services staff members that the common practice at USP Lewisburg was to give Inmate Request to Staff Member forms addressed to the Clinical Director, Dr. Bussanich, to the medical staff members for delivery. As such, Mr. Boling handed his Inmate Request to Staff Member form to "John Doe" medical staff member to deliver to Dr. Bussanich, and retained the carbon copy. Dr. Bussanich did not respond to Mr.

Boling's first written request for medical attention, did not schedule an appointment to evaluate him or to have a PA evaluate him. *Id.* ¶ 8.

10. Dr. Bussanich did not record these symptoms or medical complaints in Mr. Boling's medical records. *See id.* at Attach. 17 (Chronological Record of Medical Care).

11. Four days later, on July 12, 2005, Mr. Boling returned to the infirmary. He filled out another "sick-call" slip, recording his symptoms. He submitted the "sick-call" slip to Ivan Navarro, PA. He also told Navarro that his urine contained blood, brown puss, and feces. Mr. Boling told Navarro that his penis was swelling up "like a baseball bat" and that he was in extreme pain. Mr. Boling requested an appointment with Dr. Bussanich or a PA and medical treatment for his undiagnosed and untreated illness. *Id.* ¶ 9.

12. Navarro told Mr. Boling that he probably had a urinary tract infection. Navarro also told Mr. Boling, however, that he did not believe that Mr. Boling's urine contained blood or feces. Mr. Boling offered to show Navarro that his problem was genuine. Navarro, however, refused to examine Mr. Boling. Navarro refused to treat Mr. Boling, refused to schedule him for an appointment with Dr. Bussanich, and refused to schedule him for an appointment with a PA. *Id.* ¶ 10.

13. Furthermore, Navarro refused to record these symptoms or medical complaints in Mr. Boling's medical records. *See id.* at Attach. 17.

14. The next day, on July 13, 2005, Mr. Boling sent a second Inmate Request to Staff Member form to Dr. Bussanich, informing Dr. Bussanich that he was still urinating blood and feces, and that he was still in extreme pain. Mr. Boling also informed Dr. Bussanich that Navarro would not let him see Dr. Bussanich. Mr. Boling requested that Dr. Bussanich examine and treat him. Mr. Boling reported:

I have what I believe is a serious medical need. I sent you a cop-out on 7-8-2005 concerning my urinating blood and brown puss that looks and smell like feces. I would urinate feces and its thick coming out of my penis hole. It sometimes back up in my penis and my penis swells up like a baseball bat. When I have a full urine flow some of the feces shoots in the toilet. I am mentally suffering my kidneys ache and my liver pains me. Sir please help me I am a human being who deserve [better] treatment. PA. Navaro would not let me see you. He told me that it sounds like I have a urine infection and that they don't have the budget to do tests on every inmate who want it. Doc. I don't know what to do. Navarro said he don't believe my claim and leave the infirmary. Please help.

Id. ¶ 11, Attach. 2.

15. As directed, Mr. Boling handed his second Inmate Request to Staff Member form to “John Doe” medical staff member to deliver to Dr. Bussanich, and retained the carbon copy. Once again, however, Dr. Bussanich did not respond to Mr. Boling’s written request for medical attention and did not schedule an appointment to evaluate Mr. Boling or to have a PA evaluate him. *Id.* ¶ 12.

16. Furthermore, Dr. Bussanich once again refused to record these symptoms or medical complaints in Mr. Boling's medical records. *See id.* at Attach. 17.

17. Two days later, on July 15, 2005, Mr. Boling returned to the infirmary. He filled out another "sick-call" slip, reporting that he was urinating feces and blood. He submitted the "sick-call" slip to Navarro. Mr. Boling also informed Navarro verbally that he was still urinating blood, brown puss, and feces. Mr. Boling notified Navarro that he was still in extreme pain from urinating blood and feces. Mr. Boling requested to see Dr. Bussanich and requested medical assistance. But Navarro responded by telling Mr. Boling that Mr. Boling was a liar and that he only wanted special treatment. Navarro also told Mr. Boling that his medical symptoms were not that serious. Again, Navarro refused to treat Mr. Boling, refused to schedule him for an appointment with Dr. Bussanich, and refused to schedule him for an appointment with a PA. *Id.* ¶ 13.

18. Navarro failed to record these symptoms or medical complaints in Mr. Boling's medical records. *See id.* at Attach. 17.

19. No one informed Mr. Boling that Dr. Bussanich would be unavailable for an appointment from June 20 through July 17, 2005. *Id.* ¶ 14.

20. On July 19, 2005, Mr. Boling sent a third Inmate Request to Staff Member form to Dr. Bussanich, informing Dr. Bussanich that he was still urinating

feces and blood. Mr. Boling informed Dr. Bussanich that, although he had filled out a medical slip, he had not been seen by a doctor or a PA. Mr. Boling again requested to see Dr. Bussanich. He also informed Dr. Bussanich that neither Navarro nor Ramirez would schedule him for an appointment. Mr. Boling reported:

I need medical help. I filled out a medical slip but have not been seen [by you] I have blood brown puss and feces coming out my penis when I piss. I've told PA Navarro of my problem he told me I was a liar and that I want some special treatment. I need to be seen. My urine smells and it hurts awfully bad when I piss feces out. Doc I would like to see you. PA Navarro told me they were short of Doctors and that my problem was not serious.

Id. ¶ 15, Attach. 3.

21. As directed, Mr. Boling handed his third Inmate Request to Staff Member form to a “John Doe” medical staff member to deliver to Dr. Bussanich, and retained the carbon copy. But, for the third time, Dr. Bussanich did not respond to his written request for medical attention and did not schedule an appointment. *Id.* ¶ 16.

22. Furthermore, Dr. Bussanich failed to record these symptoms or medical complaints in Mr. Boling's medical records. *See id.* at Attach. 17.

23. About a week later, on July 28, 2005, Mr. Boling sent a fourth Inmate Request to Staff Member form to Dr. Bussanich, informing Dr. Bussanich that he

was still urinating blood and feces, which was extremely painful. Mr. Boling reported to Dr. Bussanich that Navarro and Ramirez accused him of lying about his illness and would not schedule him for an appointment. Mr. Boling also requested Dr. Bussanich to schedule an appointment. Mr. Boling reported:

Doc I would like to be seen for my problem. I urinate puss, blood and feces shoot out my penis the size of "asparagus" It hurts and pain. PA Navarro and Ramirez told me they think I'm a liar and that I have a urine infection and nothing more. Please Doc I need to be seen. I have nite sweats when I piss and feces shoots out every time I piss. Please see me doc. I believe I have a serious medical need.

Id. ¶ 17, Attach. 4.

24. Mr. Boling handed his fourth Inmate Request to Staff Member form to his case manager, Mr. Dunkelburger, at mainline to deliver to Dr. Bussanich, and retained the carbon copy. But for the fourth time, Dr. Bussanich did not respond to his written request for medical treatment and did not schedule an appointment to examine him. *Id.* ¶ 18.

25. Furthermore, Dr. Bussanich failed to record these symptoms or medical complaints in his medical records. *See id.* at Attach. 17.

26. A week later, on August 5, 2005, Mr. Boling sent a fifth Inmate Request to Staff Member form to Dr. Bussanich, informing Dr. Bussanich that he was still urinating blood and feces and again requesting to be seen by Dr.

Bussanich immediately. At this point, Mr. had been requesting to be seen by a doctor or a PA to treat my serious medical need for over a month. He reported:

I'm pissing blood, puss and feces shoots out my penis. I need to see you immediately. PA Navarro and PA Ramirez told me that I was a liar that feces were shooting out my penis and that you don't have time to see me. Doctor I pain so much my mind cracks and feces hurt as it shoots out my penis. Please call me so I can be seen by you. Thanks.

Id. ¶ 19, Attach. 5.

27. Mr. Boling handed his fifth Inmate Request to Staff Member form to his case manager, Mr. Dunkelburger, at mainline to deliver to Dr. Bussanich, and retained the carbon copy. But for the fifth time, Dr. Bussanich did not respond to his written request for medical attention and did not schedule an appointment to examine him. *Id.* ¶ 20.

28. Furthermore, Dr. Bussanich again failed to record these symptoms or medical complaints in Mr. Boling's medical records. *See id.* at Attach. 17.

29. On August 15, 2005, Mr. Boling sent a sixth Inmate Request to Staff Member form to Dr. Bussanich, dated August 13th, informing Dr. Bussanich that he was still urinating blood and feces and again requesting to be seen immediately. Mr. Boling reported:

Doc on 8-5-2005 I put a request to see you in reference to my serious medical need. I have been writing request to you and staff since 7-8-2005 in regards to my urinating blood, brown puss and pissing feces and food particles

out my penis. PA Navaro and PA Rameriez have told me they don't believe my problem to be true and I want special treatment. Also that doctors are too busy to look at my problem. Doc the feces shooting out my penis have caused me mental anguish and I'm stressed out. Please I need to see you.

Id. ¶ 21, Attach. 6.

30. Mr. Boling handed his sixth Inmate Request to Staff Member form to his case manager, Mr. Dunkelburger, at mainline to deliver to Dr. Bussanich, and retained the carbon copy. But, for the sixth time, Dr. Bussanich did not respond to Mr. Boling's written request for medical attention and did not schedule an appointment to examine him. *Id.* ¶ 22.

31. Furthermore, Dr. Bussanich again failed to record these symptoms or medical complaints in Mr. Boling's medical records. *See id.* at Attach. 17.

32. On August 19, 2005, Mr. Boling's medical problems worsened. He began urinating feces from fifteen times a night to thirty-five times a night. Mr. Boling returned to the infirmary, and told Navarro of his symptoms and asked for immediate medical attention. At this point, over a month had passed since his initial request to Navarro for medical care. Nonetheless, Navarro told Mr. Boling that his urine could not contain blood or feces. Navarro refused to give Mr. Boling a urine test because Navarro asserted that such a test would be a waste of time. Again, Navarro refused to treat Mr. Boling and refused to schedule him for an appointment. *Id.* ¶ 23.

33. Furthermore, Navarro again failed to record his symptoms or medical complaints in Mr. Boling's medical records. *See id.* at Attach. 17.

34. On August 20, 2005, Mr. Boling also sent a seventh Inmate Request to Staff Member form to Dr. Bussanich, informing Dr. Bussanich that his problem urinating feces, blood and, on some occasions food particles, had worsened. Mr. Boling again requested to be seen immediately. He reported:

Dr. Bussanich I have a serious medical problem that I sent request after request to see you. I have been urinating blood, brown puss and feces out my penis. Some times food particles would come out. PA Navarro has told me that I'm lying and that I have a urine infection. Sir I pain immensely and piss from 35 to 45 times a day plus night. I see the lumps of feces shoot out my penis and it hurt hurt hurt so much. I need to see you. PA Navarro tells me that I want fast and special treatment and that they don't have the money for special treatment for me and I should not waste his time. Please help me I pain!!!

Id. ¶ 24, Attach. 7.

35. Mr. Boling handed his seventh Inmate Request to Staff Member form to a "John Doe" medical staff member to deliver to Dr. Bussanich, and retained the carbon copy. But, for the seventh time, Dr. Bussanich did not respond to Mr. Boling's written request for medical attention and did not schedule an appointment to examine him. *Id.* ¶ 25.

36. Dr. Bussanich failed to record these symptoms or medical complaints in Mr. Boling's medical records. *See id.* at Attach. 17.

37. A week later, on August 28, 2005, Mr. Boling sent an eighth Inmate Request to Staff Member form to Dr. Bussanich. Through the request form, Mr. Boling notified Dr. Bussanich that he understood from Navarro that if he filed a grievance against Dr. Bussanich, Dr. Bussanich would not see him. Mr. Boling also informed Dr. Bussanich that he was urinating blood and feces between thirty and forty-five times a day. Again, Mr. Boling put Dr. Bussanich on notice that Ramirez and Navarro falsely accused him of lying and refused to see him. Mr. Boling reported:

Dr. Bussanich I write this request because I've been told by PA Navarro that if I file grievance you will not see me. Doc I've been pissing blood brown puss and feces. I urinate 30 to 45 times a day. Feces shoots out my penis. I've been told by Navarro that I have a urine infection but Doc feces the size of asparagus shoot out my penis and I pain so bad that sweat pops out my face. Doc I need to see you. Please check me out I have Hep C and this could be a problem for me. Rameriez and Navarro told me I'm lying and would not see me sir. Please help. Thank you.

Id. ¶ 26, Attach. 8.

38. Mr. Boling slipped his eighth Inmate Request to Staff Member form under Dr. Bussanich's office door, and retained the carbon copy. But, for the eighth time, Dr. Bussanich did not respond to Mr. Boling's written request for medical attention and did not schedule an appointment to examine him. *Id.* ¶ 27.

39. Dr. Bussanich failed to record these symptoms or medical complaints in Mr. Boling's medical records. *See id.* at Attach. 17.

40. Almost a week later, on September 5, 2005, Mr. Boling sent a ninth Inmate Request to Staff Member form to Dr. Bussanich, dated September 4th, informing Dr. Bussanich that he was still urinating blood and feces and again requesting to be seen immediately. Mr. Boling reported:

My problem has been that I'm pissing blood brown puss and feces. I've been ignored and I need to be seen. I've signed sick call but PA Navarro won't let me see you. I pain when I piss and the feces hurt while coming out. I need immediate care. This has been happening since July 2005. I have sent you numerous request but you have failed to respond. Doc I'm paining and please help. The feces [tore] my urine track. I'm pissing all the time and sometimes corn and peanuts come out my penis, please help me.

Id. ¶ 28, Attach. 9.

41. Mr. Boling handed his ninth Inmate Request to Staff Member form to his case manager, Mr. Dunkelburger, at mainline to deliver to Dr. Bussanich, and retained the carbon copy. But, for the ninth time, Dr. Bussanich did not respond to Mr. Boling's written request for medical attention and did not schedule an appointment to evaluate him. *Id.* ¶ 29.

42. Dr. Bussanich failed to record these symptoms or medical complaints in Mr. Boling's medical records. *See id.* at Attach. 17.

43. About a week later, on September 12, 2005, Mr. Boling sent a tenth Inmate Request to Staff Member form to Dr. Bussanich, informing Dr. Bussanich that he was still urinating blood and feces and again requesting to be seen immediately. Mr. Boling reported:

My complaint is I need to see you Dr. Bussanich. I'm urinating feces the size of asparagus and blood and brown puss. I have written you a many requests and no reply. PA Navarro tells me that I have a urine infection but thick feces shoot out my penis and I need immediate help! Please, please help me, I piss 30 to 45 times a day and feces come out that pains me. Doc I'm human, please don't let me suffer another day.

Id. ¶ 30, Attach. 10.

44. Mr. Boling handed his tenth Inmate Request to Staff Member form to a "John Doe" medical staff member to deliver to Dr. Bussanich, and retained the carbon copy. But, for the tenth time, Dr. Bussanich did not respond to Mr. Boling's written request for medical attention and did not schedule an appointment to examine him. *Id.* ¶ 31.

45. Dr. Bussanich failed to record these symptoms or medical complaints in Mr. Boling's medical records. *Id.* ¶ 31.

46. Almost a week later, on September 18, 2005, Mr. Boling sent an eleventh Inmate Request to Staff Member form to Dr. Bussanich, again informing Dr. Bussanich that he was still urinating blood and feces and again requesting to be seen immediately. Mr. Boling reported:

Dr. Bussanich I have been urinating blood brown puss and feces out my penis. I sometimes piss 30 to 45 times a day. Navarro and Rameriez PAs have called me to the infirmary to tell me they don't believe me and that there is not enough doctors to see all us inmates and they have a low budget. Sir I've sent [many] sick call notes that I personally took to the infirmary – no schedule dates. I'm in a lot of pain and I need to see you. The PAs think I'm trying to get special service but I need help. The feces is painful where it causes sweat to drip from me. Please help me!!

Id. ¶ 32, Attach. 11.

47. Mr. Boling handed his eleventh Inmate Request to Staff Member form to a “John Doe” medical staff member to deliver to Dr. Bussanich, and retained the carbon copy. But, for the eleventh time, Dr. Bussanich did not respond to Mr. Boling's written request for medical assistance and did not schedule an appointment to examine him. *Id.* ¶ 33.

48. Dr. Bussanich failed to record these symptoms or medical complaints in Mr. Boling's medical records. *See id.* at Attach. 17.

49. On September 26, 2005, Mr. Boling sent a twelfth Inmate Request to Staff Member form to Dr. Bussanich, again informing Dr. Bussanich that he was still urinating feces and blood and that he needed to be seen by Dr. Bussanich. Mr. Boling reported:

Dr. Bussanich I've written you numerous requests no one seems to believe that I'm urinating blood, brown puss, and feces out my penis. I've submitted sick call specifically explaining my pain and hurt. I need to be

seen. I want to get to the bottom of this. I would appreciate it if you could see me. I feel dizzy and [ackee] my penis stings and I'm afraid to pee the feces shoots out like bullets and it hurts every time I piss – please schedule me.

Id. ¶ 34, Attach. 12.

50. Mr. Boling handed his twelfth Inmate Request to Staff Member form to a “John Doe” medical staff member to deliver to Dr. Bussanich, and retained the carbon copy. But, for the twelfth time, Dr. Bussanich did not respond to his written request for medical assistance and did not schedule an appointment to examine him. *Id.* ¶ 35.

51. Dr. Bussanich again failed to record these symptoms or medical complaints in Mr. Boling's medical records. *See id.* at Attach. 17.

52. In late September 2005, Mr. Boling saw Dr. Bussanich in the hallway. Mr. Boling reminded Dr. Bussanich that he had submitted several Inmate Request to Staff Member forms and that he was still urinating blood, brown puss, and feces. Again, Mr. Boling requested medical attention immediately. But Dr. Bussanich told Mr. Boling that he did not have time to deal with Mr. Boling's problems. *Id.* ¶ 36.

53. Also at the end of September 2005, Mr. Boling approached Associate Warden Hufford. Mr. Boling explained to Associate Warden Hufford that he was urinating blood, brown puss, and feces. Mr. Boling also informed Associate

Warden Hufford that Dr. Bussanich, Navarro, and Ramirez were refusing to treat him. Specifically, Mr. Boling told Associate Warden Hufford that, although he had given numerous sick call slips to Navarro and Ramirez and had sent numerous Inmate Request to Staff Member forms to Dr. Bussanich, Mr. Boling had not received any treatment for his serious medical needs since July 5th. Despite being informed by Mr. Boling that he was suffering from a serious medical need for almost three months and that the USP Lewisburg medical staff refused to treat him, after this meeting, Associate Warden Hufford failed to ensure that Mr. Boling received medical treatment from a doctor or PA at USP Lewisburg. *Id.* ¶ 37.

54. Associate Warden Hufford also failed to ensure that Health Services staff members record Mr. Boling's symptoms or medical complaints in Mr. Boling's medical records. *See id.* at Attach. 17.

55. Between July and September 2005, Mr. Boling submitted at least eight "sick-call" slips to Health Services staff members, reporting that he was urinating feces, blood and brown puss. Between July 2005 and September 2005, however, Ramirez, Navarro, and "John Does 1-10" failed to treat, examine or schedule an appointment for Mr. Boling. *Id.* ¶ 38. Furthermore, Ramirez, Navarro and "John Does 1-10" never recorded Mr. Boling's symptoms or medical complaints regarding his urinating feces, fecal matter, or brown puss in his medical records. *Id.* at Attach. 17.

56. On September 27, 2005, Mr. Boling was finally scheduled for an appointment with Dr. Bussanich. Mr. Boling's consultation with Dr. Bussanich, however, was in regards to an issue unrelated to Mr. Boling's urinating blood and feces. Specifically, Dr. Bussanich screened Mr. Boling for exposure to a contagious form of hives from another inmate in his cell. Mr. Boling used the consultation, however, as an opportunity to remind Dr. Bussanich that he had been urinating blood and feces for almost three months and had sent numerous inmate request to staff member forms. Mr. Boling's complaint was not urinary frequency only. *Id.* ¶ 39.

57. In response, Dr. Bussanich told Mr. Boling that it is rough in prison. *Id.* ¶ 40.

58. And again, Dr. Bussanich failed to record these symptoms of urinating feces in Mr. Boling's medical records. *Id.* at Attach. 17.

59. On October 4, 2005, Mr. Boling sent his thirteenth Inmate Request to Staff Member form to Dr. Bussanich, informing Dr. Bussanich that he was still urinating feces and that he needed to be seen immediately. Mr. Boling reported:

Dr. Bussanich I was told that I will be seen soon about my pissing blood brown puss feces. I've been trying o receive treatment but no-one believed that I was urinating blood brown puss and feces. [Sir] I pain all day all night. I ask that you will see me finally. I'm in great pain and stressed out. I will go to sick call again in the pass. Navarro Pa would tell me he do not believe me and

not let me be seen. Sir you are the doctor and I asked to be seen. Thank you.

Id. ¶ 41, Attach. 13.

60. Mr. Boling handed his thirteenth Inmate Request to Staff Member form to a “John Doe” medical staff member to deliver to Dr. Bussanich, and retained the carbon copy. For the fourteenth time, Dr. Bussanich did not respond to Mr. Boling’s verbal or written request for medical treatment. *Id.* ¶ 42.

61. Dr. Bussanich failed to record these symptoms or medical complaints in Mr. Boling’s medical records.

62. On October 7, 2005, Mr. Boling reminded Associate Warden Hufford that the USP Lewisburg medical staff was ignoring his medical complaints regarding his urinating feces and blood. Mr. Boling also informed Associate Warden Hufford that his condition was worsening. Nonetheless, Associate Warden Hufford failed to ensure that Mr. Boling received medical treatment from a doctor or PA at USP Lewisburg. *Id.* ¶ 43.

63. Associate Warden Hufford also failed to ensure that the Health Services staff record Mr. Boling’s symptoms or medical complaints in his medical records. *Id.* at Attach. 17.

64. That same day, on October 7, 2005, Mr. Boling also met with Health Services Administrator Steve Brown. Administrator Brown advised Mr. Boling to sign up for “sick call” one more time. *Id.* ¶ 44.

65. On October 11, 2005, Mr. Boling reminded Navarro that he was urinating blood and feces. Once again, Navarro failed to record in Mr. Boling’s medical records that he was complaining about feces in his urine. *Id.* ¶ 45, Attach. 17 at 54.

66. On October 14, 2005, Mr. Boling returned to the infirmary, complaining that he was urinating blood and feces. Ramirez, however, did not record Mr. Boling’s symptoms of urinating feces. *Id.* ¶ 46.

67. On October 18, 2005, Ivan Navarro prescribed antibiotics to Mr. Boling for the first time. Three days later, however, Mr. Boling returned to the infirmary, indicating that the antibiotics were not stopping him from urinating feces. *Id.* ¶ 47.

68. Mr. Boling did not tell the Health Services staff that he was “getting better” on November 3, 2005, as the defendants allege. Instead, Mr. Boling told the Health Services staff that he was still urinating feces. *Id.* ¶ 48.

69. On November 12, 2005, Mr. Boling was evaluated at sick call by Navarro, and he told Navarro that he was still urinating feces. Mr. Boling sent his

fourteenth Inmate Request to Staff Member form to Dr. Bussanich. Mr. Boling stated:

Sir I'm pissing feces out my penis, I believe that the medication do not stop the food particles and feces from shooting out. I ask that a test be done on my bowls to determine where the feces are coming from. I piss sometimes 20 to 40 and 35 times a day and matter shoots out my penis. The pills you give me shoots out my penis. At time I realize that I'm in prison, but must you treat me like a animal. Please do "something" I think I'm "losing my mind," I hurt so much, and so much feces come out my penis that nothing comes out the proper area. Help me please. I'm sub human, at least I need help.

Id. ¶ 49, Attach. 14.

70. Mr. Boling handed his fourteenth Inmate Request to Staff Member form to "John Doe" medical staff member to deliver to Dr. Bussanich, and retained the carbon copy. For the fifteenth time, Dr. Bussanich did not respond to Mr. Boling's oral or written request for medical treatment. *Id.* ¶ 50.

71. Dr. Bussanich failed to record these symptoms or medical complaints in Mr. Boling's medical records. *Id.* at Attach. 17.

72. On November 21, 2005, for the first time, Dr. Bussanich noted in Mr. Boling's medical records that Mr. Boling suffered from "foul smelling urine with dark color." Although Mr. Boling specifically told Dr. Bussanich that he was urinating feces, Dr. Bussanich did not record in the medical records that Mr. Boling was urinating fecal material. *Id.* ¶ 51, Attach. 17 at 50.

73. On December 6, 2005, Mr. Boling submitted an Inmate Request to Staff Member form to Health Services Administrator Steve Brown directly, and retained the carbon copy. Mr. Boling explained:

Sir I have been coming in the mess-hall talking with you and Warden Hufford about my pissing feces. You have told me verbally that you all are aware of my condition and that you have a budget to maintain and that its six inmates that you are trying to get immediate care for and I'm one of the six. Sir, I need help now, pissing feces for eight months has destroyed me and I feel like my body is losing air, I need immediate help. Please, please, please, don't let me die. . . .

Id. ¶ 52, Attach. 15.

74. Steve Brown, however, did not respond to this request. *Id.* ¶ 53.

75. On December 29, 2005, almost six months after Mr. Boling initially complained to USP Lewisburg Health Services staff that he was urinating feces and blood, Mr. Boling finally had a consultation with an outside urologist, Dr. Raj Chopra. Dr. Chopra determined that Mr. Boling needed a cystoscopy – a test that would allow Dr. Chopra to examine the interior lining of Mr. Boling's bladder and urethra. *Id.* ¶ 54, Attach. 17 at 48.

76. The USP Lewisburg medical staff and/or Health Services Administrator Steve Brown did not schedule Mr. Boling for a cystoscopy until March 2006. *Id.* ¶ 55, Attach. 18.

77. On January 30, 2006, Mr. Boling sent his fifteenth Inmate Request to Staff Member form to Dr. Bussanich. Mr. Boling stated:

I was told by you that I was schedule for a operation by the urologist, you gave me antibiotics and urine coloring pills, my supply is gone and they really didn't help my problem. I was given a lay in due to the type of job I have that could possibly expose me to jermes that could complicate my problem. (A) Can you give me more (coloring pills to stop the pain? (B) I need a extension of my lay in which expires February 2, 2006 / in the alternative to this would you then schedule me to see you asap. Thanks Doc.

Id. ¶ 56, Attach. 16.

78. Mr. Boling handed his fifteenth Inmate Request to Staff Member form to a "John Doe" medical staff member to deliver to Dr. Bussanich, and retained the carbon copy. But Dr. Bussanich did not respond. *Id.* ¶ 57.

79. Between November 2005 and March 2006, Mr. Boling spoke with Associate Warden Hufford and Administrator Brown between four and five times a month regarding his lack of care and treatment. Administrator Brown, however, told Mr. Boling that there were too many sick prisoners, surgery was too expensive, and that Mr. Boling would just have to wait. *Id.* ¶ 58.

80. On February 2, 2006, Mr. Boling was seen at sick call. During this sick call consultation, he told the Health Services staff member that he had been passing feces, brown puss, and blood. Mr. Boling never said, however, that he had

been passing stones. In addition, Mr. Boling told the staff member that he had been urinating feces, blood, and brown puss since July 5th. Mr. Boling never told the staff member that he had been passing for “five months” only. *Id.* ¶ 59.

81. On March 6, 2006, over two months after Dr. Chopra told Mr. Boling that he needed surgery, Mr. Boling was finally sent to Bloomsburg Hospital for the first of two procedures. During the two months that Mr. Boling waited for this first operation, however, he continued to suffer extreme pain and suffering. *Id.* ¶ 60.

82. When Mr. Boling returned to USP Lewisburg after the March procedure, the USP Lewisburg medical staff failed to provide essential follow-up care. *Id.* ¶ 61.

83. First, Mr. Boling’s catheter became clogged with fecal material. He sought relief immediately from “John Doe” medical staff members. These “John Doe” medial staff members, however, refused to unclog his catheter. *Id.*

84. Second, Dr. Chopra had ordered that Mr. Boling’s catheter be removed within 48 hours after returning to USP Lewisburg. *Id.* ¶ 61, Attach. 18. Mr. Boling’s catheter was not removed until more than six days after he returned to USP Lewisburg. *Id.* ¶ 61, Attach. 17 at 43.

85. Finally, Mr. Boling was forced to walk up and down three flights of steps, three times a day, in order to receive his meals at USP Lewisburg. Forcing Mr. Boling to walk up and down three flights of stairs to eat, immediately

following a cystoscopy, caused his catheter to rip back and forth, which caused him to bleed and suffer even more pain. *Id.* ¶ 61.

86. Mr. Boling attended all scheduled appointments regarding his catheter and he notified “John Doe” medical staff members about his issues with his catheter. Nonetheless, no medical staff member responded to his verbal complaints. *Id.*

87. On March 27, 2006, Mr. Boling began the administrative grievance process. *Id.* ¶ 62, Attach. 20.

88. Dr. Chopra eventually located a fistula between Mr. Boling’s sigmoid colon and the base of his bladder, which required surgical repair to stop Mr. Boling from urinating feces. *Id.* ¶ 63, Attach. 17 at 37; Attachment 19.

89. In May 2006, ten months after Mr. Boling initially reported this serious medical condition, his colovesicular fistula was finally repaired through an invasive surgical procedure. *Id.*

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 25, 2010 a copy of the attached was served via the Court's electronic case filing system to the electronic mail address stated below:

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/s/ W. Brad Nes

W. Brad Nes